

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

FERNANDO GASTELUM,) Case No.: 1:21-cv-01164-NONE-JLT
)
Plaintiff,) SECOND ORDER TO THE PLAINTIFF TO SHOW
) CAUSE WHY SANCTIONS SHOULD NOT BE
v.) IMPOSED FOR HIS FAILURE TO COMPLY
) WITH THE COURT'S ORDERS AND TO
NORTHWEST TARGET LLC, et al.,) PROSECUTE THIS CASE; SECOND ORDER
) CONTINUING THE SCHEDULING
Defendants.) CONFERENCE.
)

The Clerk of Court issued the summonses in this case on August 20, 2021 (Doc. 3) The order setting the mandatory scheduling conference reads,

The Court is unable to conduct a scheduling conference until defendants have been served with the summons and complaint. Accordingly, plaintiff(s) shall diligently pursue service of summons and complaint and dismiss those defendants against whom plaintiff(s) will not pursue claims. Plaintiff(s) shall promptly file proofs of service of the summons and complaint so the Court has a record of service. Counsel are referred to F.R.Civ.P., Rule 4 regarding the requirement of timely service of the complaint Failure to timely serve the summons and complaint may result in the imposition of sanctions, including the dismissal of unserved defendants.

(Doc. 6 at 1) However, the plaintiff has not filed proofs of service, and the defendants have not appeared in the action. On November 3, 2021, the Court ordered the plaintiff to show cause why sanctions should not be imposed for failing to comply with the Court's orders and to prosecute this action. (Doc. 8) On November 11, 2021, the plaintiff responded and indicated that the parties were attempting to resolve the case and asked the Court to take no action at that time. (Doc. 9) Now, about

40 days later, the plaintiff has still failed to file proofs of service. Therefore, the Court **ORDERS**:

1. **No later than January 4, 2022**, the plaintiff **SHALL** show cause why sanctions should not be imposed for the failure to prosecute this action, to comply with the orders of the Court, and to serve the summons and complaint in a timely fashion (Fed. R. Civ. P.4 (m)). Alternatively, the plaintiff may file a proof of service demonstrating the summons and complaint has been served. **The Court will not consider ongoing settlement discussions as an adequate explanation for the failure to file the proof of service.**

2. The scheduling conference is **CONTINUED** to February 7, 2022 at 9:00 a.m.
Failure to respond may result in the Court recommending dismissal of the action.

IT IS SO ORDERED.

Dated: **December 21, 2021**

/s/ Jennifer L. Thurston
CHIEF UNITED STATES MAGISTRATE JUDGE